

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
ROCK HILL DIVISION

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|----------------------------------|---|-------------------------------------|
| Kathy Anders, |) | Civil Action No.: 0:17-cv-02168-RBH |
| |) | |
| Plaintiff, |) | |
| |) | |
| v. |) | ORDER |
| |) | |
| Commissioner of Social Security, |) | |
| |) | |
| Defendant. |) | |
| _____ |) | |

Plaintiff, Kathy Anders, brought this action to obtain judicial review of a final decision of Defendant Commissioner of Social Security denying Plaintiff's application for disability insurance benefits. *See* 42 U.S.C. § 405(g). On April 16, 2018, the court remanded the Commissioner's decision pursuant to sentence four of § 405(g) for further administrative proceedings.

This matter now is before the court on Plaintiff's motion for attorney's fees filed on November 29, 2019, for requested fees in the amount of \$16,962.25, which is not greater than 25% of Plaintiff's past due benefits. The Plaintiff's attorney was previously granted fees by this Court in the amount of \$3,021.01, under the Equal Access to Justice Act (EAJA), 28 U.S.C. § 2412.

In the United States Supreme Court case of *Gisbrecht v. Barnhart*, 535 U.S. 780 (2002), the Court held that the provision of the Social Security Act limiting attorney fees to 25% of past-due benefits does not displace contingent-fee agreements that are within such statutory ceiling, and instructs courts to review for reasonableness fees yielded by such agreements. In addition, if the claimant has been awarded attorney fees under EAJA, the claimant's attorney must refund the lesser of the two fees to the claimant. *Id.* at 796.

Upon review of the materials submitted to the Court,¹ the undersigned finds that Plaintiff counsel's request for attorney fees is reasonable. Therefore, it is ordered that the Plaintiff's attorney may collect a fee of \$16,962.25, which is not greater than 25% of plaintiff's past due benefits. Plaintiff's attorney must refund to the Plaintiff the EAJA award of \$3,021.01.

IT IS SO ORDERED.

January 2, 2020
Florence, South Carolina

s/ R. Bryan Harwell
R. Bryan Harwell
Chief United States District Judge

¹ The Court did not consider the affidavits provided by Plaintiff's counsel concerning the market rate for legal work as those affidavits were written almost a decade ago.